

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44113 of 2024

Arising Out of PS. Case No.-59 Year-2023 Thana- BEN P.S. District- Nalanda

Kanhaiya Jee S/O Late Kameshwar Prasad R/O vill murgawan, P.S.- Ben,
dist-nalanda as per F.I.R Balak Das @ Daya Nand Gosai @ Kanhaiya jee, S/O
Prabhu Gosai ,resident of vill -lakhaiya, P.S.- barhat, dist-jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Advocate
Mr. Shivendra Prasad, Advocate
For the Opposite Party/s : Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 02-08-2024 Heard Mr. N.K. Agarwal, learned Senior counsel for
the petitioner and the State.

2. The petitioner is in custody in connection with Ben
P.S. Case No. 59 of 2023 for the offence punishable under
Sections 406, 419 and 420/34 of the Indian Penal Code lodged
on 04.05.2023 by the informant, Meera Sharma.

3. As per the prosecution story, the informant has
alleged that her brother Kanhaiya went missing in the year 1977
and in the year 1981, this petitioner turned up claiming himself
to be missing brother. This led to lodging of Silao P.S. Case No.
252 of 1981 in which in the year 2022, the Court held that this
petitioner is not Kanhaiya rather Balak Das @ Daya Nand Gosai
and as such, was convicted.



4. The allegation is that he produced certain documents in his support in the trial Court which was found to be forged and led to another Bihar P.S. Case No. 358 of 2022 in which he acknowledged that he is Balak Das @ Daya Nand Gosai. The Circle Officer, Ben thereafter issued public notice informing general public about the disposal of the case relating to Silao P.S. Case No. 252 of 1981 cautioning the public from purchasing the land from the petitioner. However, the petitioner along with his two sons and three daughters are using Aadhar Card and Voter I.D. Card dealing with the bank, other financial institution and allegation is that he is disposing of the estate of the father of the applicant. Accordingly, the FIR.

5. Learned Senior counsel for the petitioner submits that actually the informant's father gifted the land to the petitioner's wife but since he has been declared impostor and punished, the further case has been lodged only to save the property which otherwise belongs to him.

6. Learned Senior counsel further submits that he has already been convicted in Silao P.S. Case No. 252 of 1981 on 05th April, 2022 after which he has not sold any land but only to put pressure on him, another case has been lodged which has resulted in one more movements along the corridors of the



Court.

7. Learned APP opposes the prayer submitting that not only he has been convicted, the same has been stamped by the appeal preferred by him and the Court had declared him as an impostor.

8. The petitioner already stands convicted and paragraph-33 shows that after the said conviction he has not sold any land, has remained in custody since 01.04.2024 (as per the supplementary affidavit), FIR has been lodged and he will be facing the trial. The supplementary affidavit also shows that he has not sold land since the year 1992.

9. If the said version that has come in the supplementary affidavit is/are correct, taking into account the aforesaid fact as also his period of custody, this Court is inclined to extend him privilege of bail with conditions.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned JM, 1st Class, Nalanda, in connection with Ben P.S. Case No. 59 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official



document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Adnan/-

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